

**BG 06-1**

**Tax Type: Bingo & Charitable Games**

**Issue: Revocation of Charitable Games Act License**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

v.

***ABC BINGO,***

Licensee

No. 00-ST-0000

License No. 00-000

IBT No. 0000-0000

John E. White,

Administrative Law Judge

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Charles Fitzgerald, Charles Fitzgerald, P.C., appeared for *ABC Bingo*; George Foster, Special Assistant Attorney General, appeared for the Illinois Department of Revenue.

**Synopsis:**

This matter arose after *ABC Bingo* protested the Illinois Department of Revenue's (Department) suspension of its bingo provider's license. The Department suspended *ABC Bingo*'s license after determining that *ABC Bingo* allowed bingo to be conducted on its property at a time when it had not been issued its license.

The hearing was held at the Department's Office of Administrative Hearings in Chicago. After considering the evidence adduced at hearing, I am including in this recommendation findings of fact and conclusions of law. I recommend the matter be resolved in favor of the Department.

**Findings of Fact:**

1. *John Doe (Doe)* owns *ABC Bingo*. Petitioner's Ex. 2 (copy of *ABC Bingo's* completed form RB-30 Provider of Premises License Application, dated November 1, 2005); Hearing Transcript (Tr.), p. 12 (*Doe*).
2. *Doe* filed an application for a bingo provider of premises license on November 1, 2005. Petitioner's Ex. 2; Tr. p. 12 (*Doe*).
3. With the application, *Doe* also tendered a check in the amount of \$200. Tr. p. 12 (*Doe*).
4. On November 2, 2005, after being notified by a Department employee that the application was not complete, *Doe* prepared another page 2 of the application form, and sent it to the Department. Petitioner's Ex. 2; Tr. p. 12 (*Doe*).
5. After his check was cashed, *Doe* contacted the Department to ascertain the status of *ABC Bingo's* license application. Tr. p. 17 (*Doe*). *Doe* was told that the license was on the desk of the person he was talking to, but the Department was still reviewing the application before the license would be issued. *Id.*
6. *Doe* was then interviewed by a Department employee regarding his application. Tr. p. 17 (*Doe*). Subsequently, the same Department employee notified *Doe* that the Department was investigating his criminal history. Tr. pp. 17-18 (*Doe*).
7. *ABC Bingo* allowed the Kiwanis Club of Anywhere (the Kiwanis) to conduct bingo games at *ABC Bingo* on January 3, 10, 17 and 24, 2006. Tr. pp. 9-11 (stipulation by counsel). The Kiwanis paid *ABC Bingo* a rental fee for each of the dates it conducted bingo games at *ABC Bingo*. Department Ex. 2 (copies of Kiwanis checks made

payable to *ABC Bingo*, and dated, respectively, 1/3/06, 1/10/06, 1/17/06 and 1/24/06);  
Tr. pp. 9-11 (stipulation by counsel).

8. The bingo games the Kiwanis conducted at *ABC Bingo* on 1/3/06, 1/10/06, 1/17/06 and 1/24/06 occurred before the Department had issued *ABC Bingo* a bingo provider's license. Tr. pp. 10-11 (stipulation by counsel).
9. On March 29, 2006, the Department issued a Notice of Violation to *ABC Bingo*.  
Department Ex. 1 (Notice of Violation).
10. Within the Notice of Violation, the Department notified *ABC Bingo* that it "allowed the Anywhere Kiwanis Club to play bingo when in fact you had not received your bingo provider of premises license." Department Ex. 1.

#### **Conclusions of Law:**

Section 1 of the Bingo Act provides, in pertinent part:

Applications for providers' and suppliers' licenses shall be made in writing in accordance with Department rules. Each providers' or suppliers' license is valid for one year from date of issuance, unless suspended or revoked by Department action before that date.

230 ILCS 25/1.

Section 430.150 of Illinois' Bingo regulations provides:

Section 430.150 Ineligibility for License

a) The following are ineligible for any license under the Act:

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7) Any unlicensed person or organization engaging in any activities required to be licensed under the Act;

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b) The ineligibility of a person or organization under subsections (a)(4), (5) and (6) above shall continue so long as a person defined in subsections (a)(1), (2) or (3) above maintains with the person or organization the relationship causing the ineligibility. The ineligibility of an

organization under subsections (a)(7) and (8) above shall continue for a period of one year from the cessation of the activities required to be licensed under the Act.

86 Ill. Admin. Code § 430.150.

Counsel introduced, under the certificate of the Director, a copy of the Notice of Violation it issued to *ABC Bingo*. Department Ex. 1. After the Department introduced those denials, the burden shifted to *ABC Bingo* to establish, by a preponderance of evidence, that the Department's determination was incorrect. *See* 5 ILCS 100/10-15 (standard of proof in set forth in the Illinois Administration Procedures Act).

Counsel for *ABC Bingo* initially argued that its owner reasonably believed that he had been issued a license, since (1) the Department cashed the check drawn to pay the application fee; (2) he had been told by a Department employee that the license was on an employee's desk and was awaiting issuance, and (3) *ABC Bingo* had previously been issued a license to have bingo games conducted there for a different licensed organization. Tr. pp. 23-24 (closing argument). Counsel also argued that *ABC Bingo* did not need a provider's license because Bingo regulation § 430.140(a) provides that "a providers license is not required for any premises on which organizations intending to conduct bingo also have their office or headquarters, or on which they regularly further the purposes of which they were organized." 86 Ill. Admin. Code § 430.140(a). It asserts that the checks that the Kiwanis used to pay for the bingo games held in January 2006 do not include an address, and thus, it would be reasonable to conclude that the *ABC Bingo* is the Kiwanis headquarters, or, at the very least, that the Kiwanis regularly met at the *ABC Bingo* to raise money to further the purposes for which the Kiwanis was organized. Tr. pp. 24-25 (closing argument). Finally, *ABC Bingo* argued that, if it needed a license,

the period of suspension should be deemed to begin on November 5, 2005, which was the date it sent in its license application. Tr. pp. 25-26.

The Department responds that *ABC Bingo* has stipulated to facts that show a violation of § 430.150(a)(7) of the Bingo regulations, since it concedes that *ABC Bingo* allowed bingo to be conducted at its banquet hall at a time when it did not have a provider's license. Tr. pp. 26-27 (closing argument). The Department urges that the *ABC Bingo* cannot claim the protection of Bingo regulation § 430.140(a), because the pertinent part of that section was intended to apply only to persons that are, themselves, licensed to conduct bingo games, and where the games will be conducted on the licensee's own property, or on property that it regularly uses to conduct its operations. Tr. pp. 27-28 (closing argument). Finally, the Department asserts that the period of suspension under the Bingo regulations should be deemed to begin on January 24, 2006, which is the last date on which *ABC Bingo* admittedly violated Bingo regulation § 430.1540(a)(7). Tr. pp. 28-30; 86 Ill. Admin. Code § 430.150(b). Thus, the Department says, *ABC Bingo* would be eligible to obtain a provider's license, should it reapply for one, on January 24, 2007. Tr. pp. 29-30.

I agree with each of the Department's arguments. *ABC Bingo* has stipulated that it knowingly allowed the Kiwanis to conduct bingo at the *ABC Bingo* at a time when it had not been issued a bingo provider's license. Tr. pp. 9-11 (stipulation by counsel); 86 Ill. Admin. Code § 430.150(a)(7). *ABC Bingo* has offered no competent, documentary evidence that the Kiwanis' headquarters was, in fact, the *ABC Bingo*, or that the *ABC Bingo* was where the Kiwanis regularly met to further the purposes for which it was organized. I certainly do not accept that the Kiwanis was organized to conduct bingo

games. Nor would I base such findings of fact on the mere absence of an address for the Kiwanis on the Kiwanis' checks. *See* Department Ex. 2. Finally, I agree with the Department's argument that *ABC Bingo's* suspension should run through January 23, 2007. Tr. pp. 9-11; 86 Ill. Admin. Code § 430.150(b).

**Conclusion:**

I recommend the Director uphold the Department's suspension of *ABC Bingo's* bingo provider's license, until January 23, 2007.

Date: 11/14/2006

John E. White  
Administrative Law Judge